IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 15186 of 2005

Between:

D.V.V. Satyanarayana Reddy S/o Late Sri Sambaiah
R/o Anaparthi Village and Mandal East Godavari District

..... PETITIONER

AND

1 The Divisional Engineer (Electrical, Assessmetns) APEPDC Ltd., Rajahmundry, East Godavari District
2 Assistant Divisional Engineer, Operation, APEPDC LTd., Anaparthi, East Godavari District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandmaus or any other appropriate Writ, declaring the letter issued by the 2nd respondent herein bearing LR. No. ADE/O/APT/F.DOC/S.Er/D.No. 107/04, dt 10-05-2005 as illegal arbitrary and unjust and consequently direct the respondents to drop all further proceedings in this regard against the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.N.SIVA REDDY

Counsel for the Respondent No.: MR.V.AJAYAKUMAR (S.C. for APEPDC)

The Court made the following :

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.15186 of 2005

ORA ORDER:

The grievance of the petitioner in this writ petition is that power was disconnected to his house pursuant to the orders of the Assistant Divisional Engineer (2nd respondent), vide proceedings dated 10-5-2005 whereby the value of energy alleged to have been pilfered by the petitioner was estimated at Rs.1,34,831/- and the petitioner was informed that if he desired restoration of supply he was required to pay Rs.67,415/- being half of the estimated amount plus supervision charges of Rs.150/- plus reconnection charges of Rs.50/- to the Accounts Officer.

Both the learned counsel for the petitioner and Sri V.Ajay Kumar, learned standing counsel for the respondents agree that the subject matter of this writ petition is covered by a Division Bench judgment of this Court in Writ Appeal Nos.452 and 477 of 2004 dated 11-3-2004 wherein the Division Bench held that the authorities did not have power to forthwith stop or disconnect electricity while issuing provisional assessment. It was further held that provisional assessment was in the nature of a show cause notice against which the consumer was entitled to have an opportunity of hearing before final orders was passed by the concerned authority and that the notice would be deemed to have been issued only under Section 126 of the Electricity Act under which there was no authority or power to the respondents to discontinue or disconnect electricity supply or call upon the petitioner to pay even part of the provisional assessment amount till final assessment was made. It was further held that only on the consumers not complying with the final assessment, the respondents could proceed further in the matter, which would also be subject to appeals, if any, to be filed by the consumers.

This writ petition is also disposed of in terms of the order of this Court in W.P.No.452 and 477 of 2004 dated 11-3-2004 with a direction that electricity supply to the

petitioner shall be restored forthwith and the concerned authority will proceed to pass final orders, after affording opportunity of being heard to the petitioner. No costs.

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14-7-2005

Note:

Issue operative portion of the order by wire

At party's cost

B/o

asp

To:

1 The Divisional Engineer (Electrical, Assessmetns) APEPDC Ltd., Rajahmundry, East Godavari District
2 Assistant Divisional Engineer, Operation, APEPDC LTd., Anaparthi, East Godavari District

3. Two C.D. copies